

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X  
**UNITED STATES OF AMERICA**

**- v -**

**ORDER  
05-CR-785 (NG)(SMG)**

**MOUTAZ ALI,**

**Defendant.**

-----X

**GERSHON, United States District Judge:**

The government objects to Magistrate Judge Steven M. Gold's Report and Recommendation to grant defendant's motion to suppress. Specifically, the government challenges Judge Gold's conclusion that Immigration and Customs Deportation Officer Russell Hott's search of defendant's bedroom was not justified as a broad protective sweep based on a belief that "defendant was harboring an individual posing a danger to officers" under *Maryland v. Buie*, 494 U.S. 325, 334 (1990). To be clear, the government does not object to Judge Gold's conclusion that Officer Hott's search of defendant's bedroom was not a "search incident to arrest" either under *Chimel v. California*, 395 U.S. 752, 762-63 (1969), or under *Buie*, 494 U.S. at 334.

Upon *de novo* review of the objections, I affirm Judge Gold's finding. His Report and Recommendation is adopted, and defendant's motion to suppress is granted.

**SO ORDERED.**

\_\_\_\_\_/s/\_\_\_\_\_  
**NINA GERSHON**  
**United States District Judge**

Dated: Brooklyn, New York  
April 7, 2006